

ORIGINAL

BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423



230480

STB Finance Docket No. 30186 (Sub. No 3)¹

TONGUE RIVER RAILROAD COMPANY, INC.
CONSTRUCTION AND OPERATION – WESTERN ALIGNMENT

PETITIONERS NORTHERN PLAINS RESOURCE COUNCIL'S
AND MARK FIX'S REQUEST FOR EXTENSION OF TIME TO FILE
A PETITION FOR RECONSIDERATION

Jack Tuholske, Esq.
Tuholske Law Office
PO Box 7458 Missoula MT 59807
406-396-6415
jtuholske@gmail.com

Counsel for Petitioners

June 29, 2011

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¹ This decision, and consequently this Petition, also embraces Finance Docket No. 30186, Tongue River R.R.—Rail Construction and Operation—In Custer, Powder River and Rosebud Counties, MT, and Finance Docket No. 30186 (Sub-No. 2), Tongue River Railroad Company—Rail Construction and Operation—Ashland to Decker, Montana.

Petitioners Northern Plains Resource Council and Mark Fix hereby request an extension of time until July 25th, 2011, to file a petition for reconsideration. Petitioners recognize this request is beyond the normal 10-day period to request such an extension. Petitioners have labored to meet the original 20-day time frame, but the enormity of the task and other pressing deadlines cause them to now seek an extension so that they can provide the most thorough explanation possible of why reconsideration is needed.

On July 26, 2010 Petitioners filed a Petition to Reopen the Board's prior decisions in Sub-Nos. 1,2, and 3 of this case pursuant to 49 CFR § 1115.4: The Surface Transportation Board denied the request on June 15, 2011. The decision is subject to petition for reconsideration under 49 CFR § 1115.3. The Board is authorized to grant a 20-day extension for filing the petition pursuant to Section 1115.3(e).

Petitioners request the extension for two reasons. First, Petitioners want to ensure the legal accuracy of both STB's decision and the request for reconsideration. It is important that the administrative process be fully utilized to allow the Board to reconsider the matter. The Board's denial is lengthy and complicated. It is seventeen single spaced pages, includes forty footnotes, at least as many legal citations, and multiple references to

numerous statutes and regulations. Petitioners have tried to draft the petition for reconsideration but they have not been able to do so in a cogent fashion within the 20 days.

The second reason for granting the extension is that Petitioners are preparing for 9th Circuit oral argument on the related Petitions for Judicial Review of Finance Docket 30186 Sub-No. 2 and Finance Docket 30186 Sub-No. 3, which is scheduled for July 11, 2011. Preparation for this argument has been more time-consuming than anticipated. The undersigned is lead counsel for this matter. All of this comes on top of Petitioner's standard practice and full-time teaching duties at the University of Montana and Vermont Law School.

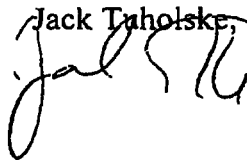
Granting the extension will ensure Petitioners are able to give the matter the proper attention it deserves. Such extensions have previously been made in these proceedings.

CONCLUSION

For the reasons stated above, Petitioners request that they be provided until July 25th, 2011 to file a Petition for Reconsideration in this matter.


Respectfully submitted,

Jack Tuholske, Esq.

A handwritten signature in black ink, appearing to read 'Jack Tuholske', is written over the typed name.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on June 29, 2011, copies of *Northern Plains Resource Council's and Mark Fix's Motion for Extension of Time to File a Petition for Reconsideration* were served via United States Postal Service first-class mail, with adequate prepaid postage on all parties of record in this proceeding.

By: 

Jack Tuholske, Esq.
Counsel for Petitioners